

1 BEFORE THE BOARD OF MEDICAL EXAMINERS

2 IN THE STATE OF ARIZONA

3 In the Matter of:

Investigation No. 12743

4 **JOHN C. MORGAN, M.D.**

**FINDINGS OF FACT, CONCLUSIONS
OF LAW AND ORDER** (Letter of
Reprimand with Probation)

5 Holder of License No. 25871
6 For the Practice of Medicine
7 In the State of Arizona.

8
9 **INTRODUCTION**

10 This matter was considered by the Arizona Board of Medical Examiners (hereafter
11 "Board") at its public meeting on April 26, 2000. John C. Morgan, M.D. with legal counsel,
12 Brian R. Booker appeared before the Board for the purpose of the Board conducting a formal
13 interview pursuant to the authority vested in the Board by A.R.S. § 32-1451(G). After due
14 consideration of the facts and law applicable to this matter, the Board voted, at its public
15 meeting on June 21-23, 2000, to issue the following Findings of Fact, Conclusions of Law
16 and Order for disposition of this matter.

17
18 **FINDINGS OF FACT**

19 1. The Board is the duly constituted authority for the regulation and control of the
20 practice of medicine in the State of Arizona.

21 2. John C. Morgan, M.D. is holder of Board License No. 25871 for the practice of
22 allopathic medicine in the State of Arizona.

23 3. Board Investigation No. 12743 was initiated after the Board staff received
24 information from a pharmacist that Dr. Morgan had written three (3) prescriptions for a
25 controlled substance (i.e., Lorcet) for his wife. But, the prescriptions were written by Dr.
26

1 Morgan using his wife's maiden name as the patient for whom the medication was prescribed.

2 4. By correspondence dated June 9, 1999, from the Board to Dr. Morgan, he was
3 informed of the allegations of unprofessional conduct. Dr. Morgan has responded to those
4 allegations through correspondence submitted by his legal counsel, Brian R. Booker, and
5 received by the Board on July 2, 1999.
6

7 5. Counsel for Dr. Morgan asserted in his correspondence to the Board that Dr.
8 Morgan's wife, at the time when the Lorcet was prescribed by Dr. Morgan, had been suffering
9 from pain for several years due to a combination of pre-menopausal symptoms and
10 discomfort associated with endometriosis. The aforementioned medical condition allegedly
11 also contributed to recent episodes of depression. On or about March 13, March 23, and April
12 6, 1999, Mrs. Morgan allegedly experienced severe episodes of cramping and headache
13 related to the aforementioned medical condition. Dr. Morgan has asserted that in order to
14 relieve his wife's symptoms he prescribed Lorcet for her on March 13, 1999, March 23, 1999
15 and April 6, 1999.
16

17 6. Mrs. Morgan traveled to the pharmacy alone on March 13, and March 23 and
18 had the aforementioned prescriptions filled personally. When Mrs. Morgan returned on April
19 6, 1999, the pharmacist refused to fill the third prescription after discovering that Dr. Morgan
20 was the husband of Mrs. Morgan. On the occasion when Mrs. Morgan went to the pharmacy
21 on April 6, 1999 she was accompanied by Dr. Morgan. The pharmacist explained to Mrs.
22 Morgan that he could not fill the prescription because of the statutory prohibition on a
23 physician prescribing a controlled substance for a family member.
24
25

26 7. In Dr. Morgan's letter of response, through legal counsel, to the Board's notice

1 of investigation, it is asserted that Dr. Morgan practiced medicine for 27 years in Minnesota
2 before moving to Arizonaⁱⁿ 1997; and it is further asserted that in Minnesota the prescribing
3 of controlled substances by a physician for a family member is not prohibited. Therefore, he
4 mistakenly assumed that he could prescribe a controlled substance to relieve his wife's
5 symptoms as described previously. Nevertheless, Dr. Morgan acknowledges his violation of
6 the Board's statute, i.e., A.R.S. § 32-1401(25)(h).
7

8 8. The investigation conducted by Board staff and reported to the Board disclosed
9 that the Lorcet tablets were obtained from Albertson's Pharmacy located at Pima Road and
10 Frank Lloyd Wright, Scottsdale, Arizona. The prescriptions for March 13 and March 23 were
11 written for Lorcet 10 mg, and a quantity of 80.
12

13 9. Dr. Morgan appeared for an investigational interview by Board staff and during
14 the aforementioned interview acknowledged that he had written the prescriptions for his wife,
15 while using her maiden name. Dr. Morgan asserted during the investigational interview that
16 he had written prescriptions in his wife's maiden name because that was how she wanted
17 them written. Dr. Morgan also stated that he was not aware that prescribing to a family
18 member was prohibited in Arizona; however, he acknowledged that he has received a copy
19 of the Board's medical directory that contains the Board's statutes applicable to the practice
20 of medicine in Arizona.
21

22 10. The Board's staff reported that Mrs. Morgan's medical records were obtained
23 from other treating physicians as well as the clinic where Dr. Morgan was employed; and,
24 said patient records establish that she used her married name and there was no indication
25 in the medical records reviewed of suspected endometriosis.
26

1 11. During the course of the Board's formal interview with Dr. Morgan on April 26,
2 2000, he acknowledged that the total number of Lorcet, 10 mg prescribed for his wife was 240
3 tablets. Dr. Morgan asserted that his reasons for prescribing this quantity of Lorcet was
4 because his wife told him that she threw away or misplaced the earlier filled prescription of
5 tablets.
6

7 12. Dr. Morgan further asserted during the Board's formal interview proceeding that
8 he had written the prescriptions for his wife in anticipation of her seeing her regular physician
9 at the end of April. He stated that his wife had allegedly misplaced the medications.
10 Therefore he wrote another prescription for her. Dr. Morgan asserted that he did not believe
11 his wife had a problem with substance abuse or chemical dependency and if he had such a
12 suspicion he would not have handled this matter the way he did.
13

14 CONCLUSIONS OF LAW

15 1. The Board possesses jurisdiction over the subject matter hereof and over Dr.
16 Morgan, pursuant to *A.R.S. § 32-1401, et seq.*
17

18 2. The conduct and circumstances described above in paragraphs 3 through 12
19 constitute unprofessional conduct pursuant to:

20 *A.R.S. § 32-1401(25)(a)* violating a federal or state laws or rules
21 and regulations applicable to the practice of medicine; and

22 *A.R.S. § 32-1401(25)(h)* prescribing or dispensing controlled
23 substances to members of the physician's immediate family.

24 ORDER

25 Based on the foregoing Findings of Fact, Conclusions of Law,

26 IT IS HEREBY ORDERED, that:

1 1. Dr. Morgan's license to practice medicine in the State of Arizona is placed on
2 probationary status for one-year; and

3 2. As a condition of probation, Dr. Morgan shall complete, within the
4 aforementioned probationary period, 10 hours of Board staff pre-approved continuing
5 medical education in record keeping and an additional 10 hours of Board staff pre-
6 approved continuing medical education in the context of acute and chronic
7 pharmacological management of pain; and,

8 3. The completion of the aforementioned continuing medical education ("CME")
9 courses shall be in addition to completing the statutorily mandated minimum continuing
10 medical education hours for renewal of licensure; and,

11 4. Dr. Morgan shall submit written confirmation of completion of the
12 aforementioned supplemental hours of continuing medical education on or before the
13 expiration of the term of probation which shall commence on the effective date of this
14 Order; and,

15 5. This probationary order shall terminate upon expiration of one (1) year from
16 the effective date of the Order, assuming that Dr. Morgan fully complies with the
17 aforementioned terms of probation.

18
19 RIGHT TO FILE MOTION FOR REHEARING OR REVIEW

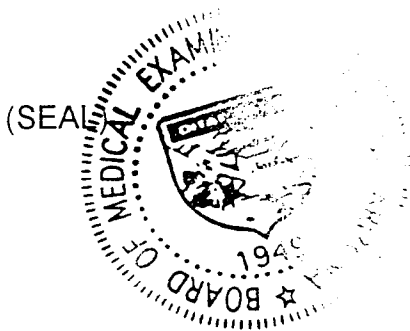
20 The above named physician is hereby notified that he has a right to file a motion for
21 rehearing of this matter with the Board, pursuant to A.R.S. § 41-7092.09 as amended.
22 A motion for rehearing must be filed with the Board's Executive Director within thirty
23 (30) days after service of this Order. Pursuant to A.A.C. R4-16-102, said motion
24 must set forth legally sufficient reasons for granting a rehearing. Service of this Order
25

1 is effective five (5) days after the date of mailing by Board staff to the physician's address of
2 record. If the motion for rehearing is not filed, the Board's Order becomes effective thirty-five
3 (35) days after it has been mailed to the physician named herein.

4 Notice is also hereby given that the filing of a motion for rehearing is required to
5 preserve any rights of appeal of this order to the Superior Court and the failure to file a timely
6 motion for rehearing or review will have the effect of waiving the right to seek judicial review
7 of the Board's decision in this matter. See A.R.S. § 41-1092.09(B).

8
9 ISSUED this 27 day of June, 2000.

10 BOARD OF MEDICAL EXAMINERS
11 OF THE STATE OF ARIZONA



13 Tom Adams
14 CLAUDIA FOUTZ
15 Executive Director
16 TOM ADAMS
17 Assistant Director for Regulation

18 Original of the foregoing filed this
19 28th day of June, 2000 with:

20 Board Operations Section
21 Arizona Board of Medical Examiners
22 9545 E. Doubletree Ranch Road
23 Scottsdale, Arizona 85258

24 Executed copy of the foregoing
25 mailed by U.S. certified mail this
26 28th day of June, 2000, to:

John C. Morgan, M.D.
10929 E. Betony Drive
Scottsdale, Arizona 85259

1 COPY of the foregoing mailed this
2 28th day of June, 2000, to:

3 Brian R. Booker
4 Attorney at Law
5 Streich Lang P.A.
6 Two North Central
7 Phoenix, Arizona 85004-2391
8 Attorney for Dr. Morgan

9 Michael N. Harrison
10 Assistant Attorney General
11 Licensing and Enforcement Section
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